

## **EXHIBIT A**

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF PENNSYLVANIA

IN RE: . Case No. 00-22876 (JKF)  
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. .  
PITTSBURGH CORNING .  
CORPORATION, .  
. . 5414 USX Tower Building  
. . Pittsburgh, PA 15219  
Debtor. . January 13, 2010  
. . 9:04 a.m.  
. . . . .

TRANSCRIPT OF HEARING  
BEFORE HONORABLE JUDITH K. FITZGERALD  
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

For the Debtor: Reed Smith LLP  
By: DOUGLAS E. CAMERON, ESQ.  
JAMES J. RESTIVO, JR., ESQ.  
435 Sixth Avenue  
Pittsburgh, PA 15219

For ACC: Caplin & Drysdale, Chartered  
By: PETER VAN N. LOCKWOOD, ESQ.  
One Thomas Circle, N.W.  
Washington, DC 20005

Campbell & Levine  
By: DAVID SALZMAN, ESQ.  
1700 Grant Building  
Pittsburgh, PA 15219

Audio Operator: Janet Heller

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268 Evergreen Avenue  
Hamilton, New Jersey 08619  
E-mail: jjcourt@optonline.net

(609) 586-2311 Fax No. (609) 587-3599

APPEARANCES (cont'd.):

For Various Claimant Firms: Stutzman, Bromberg, Esserman  
By: DAVID J. PARSONS, ESQ.  
2323 Bryan Street, Suite 2200  
Dallas, TX 75201-2689

For Century Ins. Co.: O'Melveny & Myers, LLP  
By: TANCRED SCHIAVONI, ESQ.  
Times Square Tower  
Seven Times Square  
New York, NY

For Certain Pittsburgh Corning Cancer Claimants: Montgomery, McCracken, Walker & Rhoads, LLP  
By: NATALIE D. RAMSEY, ESQ.  
123 South Broad Street  
Philadelphia, PA 19109

For Future Claims Rep: Dinsmore & Shohl, LLP  
By: JOEL HELMRICH, ESQ.  
One Oxford Centre  
301 Grant Street, Suite 2800  
Pittsburgh, PA 15219

For PPG: Kirkpatrick & Lockhart  
By: DAVID MURDOCH, ESQ.  
DAVID McGONIGLE, ESQ.  
MICHAEL NELSON, ESQ.  
DAVID ACETO, ESQ.  
535 Smithfield Street  
Pittsburgh, PA

For Committee of Unsecured Trade Creditors: Leech, Tishman, Fuscaldo & Lampl  
By: DAVID LAMPL, ESQ.  
CRYSTAL THORNTON-ILLAR, ESQ.  
1800 Frick Building  
Pittsburgh, PA 15219

For Corning Inc.: Thorp, Reed & Armstrong  
By: KIMBERLY LUFT WAKIM, ESQ.  
ELENE MOUNTIS MORAN, ESQ.  
301 Grant Street, 14th Floor  
Pittsburgh, PA 15219

For Lumbermens: Fox Rothschild  
By: JOHN GOTASKIE, ESQ.  
625 Liberty Avenue, 29th Floor  
Pittsburgh, PA 15222-3115

APPEARANCES (cont'd.):

For Garlock Sealing Technologies: Del, Sole, Cavanaugh & Stroyd  
By: ART STROYD, ESQ.  
The Waterfront Building  
200 First Avenue, Suite 300  
Pittsburgh, PA 15222

For Continental Casualty: Stonecipher, Cunningham, Beard  
& Schmitt, P.C.  
By: GEORGE T. SNYDER, ESQ.  
125 First Avenue  
Pittsburgh, PA 15222

For Garlock Sealing Technologies: Robinson, Bradshaw & Hinson  
By: GARLAND S. CASSADA, ESQ.  
RICHARD C. WORF, ESQ.  
101 North Tryon Street, Suite 1900  
Charlotte, NC 28246

TELEPHONIC APPEARANCES:

For Debtor: Ward, Norris, Heller & Reidy  
By: CHERYL HELLER, ESQ.  
300 State Street  
Rochester, NY

For James Dennis: Zeichner, Ellman & Krause LLP  
By: MICHAEL DAVIS, ESQ.  
575 Lexington Avenue  
New York, NY 10022

For Travelers Casualty: Debevoise & Plimpton, LLP  
By: ROBERT D. GOODMAN, ESQ.  
913 3rd Avenue  
New York, NY 10022-3916

For Everest Insurance: Walker, Wilcox & Matousek  
By: FRED ALVAREZ, ESQ.  
225 West Washington Street, Suite 2400  
Chicago, IL 60606

For NorthStar Reinsurance Corp.: Skadden, Arps, Slate, Meagher  
& Flom, LLP  
By: MICHAEL J. BALCH, ESQ.  
Four Times Square  
New York, NY 10036

TELEPHONIC APPEARANCES (cont'd.):

For Travelers Casualty: Travelers Casualty and Surety  
By: LEONARD BIERINGER, ESQ.

For AIG: Lynberg & Watkins  
By: R. JEFF CARLISLE, ESQ.  
888 S. Figueroa St., 16th Floor  
Los Angeles, CA 90017

For Employee Insurance of Wausau: Dorsey & Whitney, LLP  
By: JOSHUA COLANGELO-BRYAN, ESQ.

For AIG: Mound, Cotton, Wollan & Greengrass  
By: JAMES DENNIS, ESQ.  
24 Whitehall Street  
New York, NY 10004-1416

For Various Claimant Firms: Stutzman, Bromberg, Esserman  
By: SANDER L. ESSERMAN, ESQ.  
2323 Bryan Street, Suite 2200  
Dallas, TX 75201-2689

For Continental: Carroll, Burdick & McDonough  
By: RODNEY L. ESHELMAN, ESQ.  
44 Montgomery Street, Suite 400  
San Francisco, CA 94104

For All the Future Claimants: By: LAWRENCE FITZPATRICK, ESQ.

For Insurance Counsel to ACC: Anderson, Kill & Olick  
By: ROBERT M. HORKOVICH, ESQ.

For Debtor: Corning Incorporated  
By: LINDA E. JOLLY, ESQ.  
One Riverfront Plaza  
Corning, NY

For Berkshire Hathaway: Graham Curtin  
By: ROBERT MAURIELLO, ESQ.

For Official Committee of Unsecured Asbestos Creditors: Campbell & Levine  
By: PHILLIP MILCH, ESQ.  
1700 Grant Building  
Pittsburgh, PA 15219

For Sherrard, German & Kelly: Sherrard, German & Kelly PC  
By: GARY PHILLIP NELSON, ESQ.

TELEPHONIC APPEARANCES (cont'd.):

For Debtor: Pittsburgh Corning Corporation  
By: JOSEPH NESE, ESQ.

For Royal Alliance: Wilson, Elser, Moskowitz, Edelman  
By: CARL PERNICONE, ESQ.

For Federal Insurance: Cozen O'Connor  
By: WILLIAM SHELLEY, ESQ.  
1900 Market Street  
Philadelphia, PA 19103

For Lumbermens Mutual: Charlston, Revich & Wollitz, LLP  
By: STEPHEN P. SOSKIN, ESQ.  
1925 Century Park East, Suite 1250  
Los Angeles, CA 90067-2746

1 ballot by definition does that.

2 So you compare the people who voted with the people  
3 who are named on the 2019 statements as being clients of the  
4 firm that are represented in the case. And let's assume there  
5 are a lot of people who are listed on the 2019s that didn't  
6 vote. What does that show you about whether they've been  
7 exposed to Pittsburgh Corning asbestos? I don't think it shows  
8 anything.

9 And the one thing that the 2019s do that the ballot  
10 doesn't do is it contains information about the fee  
11 arrangements with the lawyers.

12 And I don't understand what legitimate interest  
13 Garlock has given the objections that it's filed in this case  
14 to that. But even if they got that information it's still not  
15 going to show whether they have exposure to Pittsburgh Corning  
16 products or anything else.

17 So I think Your Honor asked the right question, but I  
18 don't think you really got an answer from Mr. Cassada that  
19 legitimately explained what it is that he thinks these 2019s  
20 are going to do for his objection.

21 MR. CASSADA: Your Honor, we --

22 THE COURT: Just a minute. Let me look at the rule  
23 for a minute please. Okay. First of all the 2019 statements  
24 don't have to include a date of exposure to the extent that the  
25 facts and circumstances that gave rise to the claim or interest

1 had been acquired more than a year prior to the filing of the  
2 petition.

3 So what Garlock expects to get out of the 2019  
4 statements is not necessarily going to be there unless it's a  
5 nature of a claim or amount of a claim or interest that accrued  
6 within the year pre-petition.

7 So first of all the 2019 statements don't have that  
8 type of information.

9 Number two, the purpose for filing the 2019  
10 statements is essentially to make sure that the Court  
11 understands that the parties who -- that the attorneys who  
12 purport to represent particular parties actually do represent  
13 those parties and therefore have the right to participate in  
14 the significant events in the case.

15 They are not there for the purpose of allowing  
16 another party to use them in some litigation context outside  
17 the confines of this case.

18 It is the ballots that determine whether or not a  
19 person has come forward with information that indicates that  
20 they have a claim against this estate at this time.

21 To the extent there's a futures claim out there -- we  
22 went through this I know in a different context, in slightly  
23 different context in the W.R. Grace argument, but the comments  
24 are the same -- to the extent there's a futures claim out  
25 there, that entity isn't going to vote and that information to

1 the extent it is or isn't included in the 2019 statements can't  
2 be ascertained at this time.

3 I don't see a basis for Garlock getting these 2019  
4 statements. I'm happy to defer this for a week to see, or  
5 however long, to see whether you folks can come to some  
6 resolution, but I don't see a basis for it. Especially since  
7 the information I think you're looking for is on the ballots.

8 MR. CASSADA: Yes, Your Honor, thank you. First of  
9 all the information we're seeking doesn't contain any of the  
10 fee arrangement.

11 Your Honor, the 2019 statements are the only time in  
12 a case when the parties who these lawyers appear and represent  
13 in a case identify themselves and --

14 THE COURT: No, they identify themselves in the  
15 ballots, on the master ballots.

16 MR. CASSADA: Yeah, they identify themselves later in  
17 the ballots.

18 THE COURT: Yes.

19 MR. CASSADA: But 2019 statements tend to show when  
20 they first had exposure to --

21 THE COURT: They don't.

22 MR. CASSADA: Yes.

23 THE COURT: They don't even have to say that.

24 MR. CASSADA: Your Honor, okay, Your Honor, let me  
25 read you what the typical 2019 statement in this case and

1 others say.

2 It's prepared by a law firm, Mr. Lockwood is correct,  
3 the lawyer says I have personal knowledge of the facts set  
4 forth herein. As of the date of this amended statement the  
5 firm represents thousands of personal injury claimants who have  
6 been injured by asbestos containing products manufactured,  
7 marketed, distributed, sold or produced by debtor and others  
8 and thus hold claims against the debtor. And then it attaches  
9 who those claimants are.

10 In this case, Your Honor, we're not seeking this  
11 information for the purpose of using it outside of the  
12 bankruptcy case. It's relevant to our plan objections.

13 The ballots show which of these 2019 filers  
14 subsequently voted their claims.

15 THE COURT: Yes.

16 MR. CASSADA: And in voting their claims there is a  
17 certification under penalty of perjury that these folks have  
18 bona fide claims which includes, and the master ballot  
19 instruction says, that it has to include Pittsburgh Corning  
20 exposure which is credible and meaningful evidence of exposure.

21 THE COURT: Exactly.

22 MR. CASSADA: Right. So when we provide that  
23 evidence and we show that these claimants in the tort system  
24 have taken just the opposite position, then --

25 THE COURT: First of all I haven't heard any evidence

1 yet, evidence, that indicates that the plaintiffs in the tort  
2 system have taken a different position with respect to this  
3 debtor.

4 MR. CASSADA: Yes.

5 THE COURT: So the ballots are there and you've got  
6 them. If they've taken an inconsistent position in the tort  
7 system, go complain to the state court judge about the fact  
8 that they've taken an inconsistent position.

9 That has nothing to do with the legitimacy of their  
10 vote in this case. They're taking a position here that says  
11 they have a legitimate claim, they've sworn to that fact under  
12 penalty of perjury, and the ballot is what determines that.

13 To the extent that Garlock is a codefendant as to any  
14 of those folks who have voted, then you're a codefendant. That  
15 proves the point that you're trying to make. You don't need  
16 the 2019 statements to bolster that argument, you've got them  
17 in the form of the ballots.

18 MR. CASSADA: No, Your Honor, the point that we were  
19 trying to make is that the plan is not fair and equitable to  
20 Garlock.

21 THE COURT: All right.

22 MR. CASSADA: And the reason it's not fair and  
23 equitable is because it confers on the claimants a privacy  
24 right, a right to hold onto their claim and then file it in  
25 privacy and secrecy from the defendants. And this --

1           THE COURT: But you've already got the ballots so  
2 you'll know whether or not they choose to file a claim against  
3 the trust because you've got the ballots. They voted.

4           MR. CASSADA: That's right.

5           THE COURT: Okay.

6           MR. CASSADA: And the ballots will show that what  
7 happens, the danger, to Garlock and why it would be unfair in  
8 the future to allow claimants to file in secrecy because they  
9 take inconsistent positions.

10          Now when we provide evidence to you of that, then I  
11 would expect --

12          THE COURT: When you provide evidence to me of that  
13 then maybe I'll reconsider this 2019 issue. Even then the fact  
14 that somebody has listed an individual as a client on a 2019  
15 statement is not evidence that they are going to submit a claim  
16 against the trust in the future.

17          So I don't even see how it's relevant at this point.  
18 It may be relevant --

19          MR. CASSADA: Yes, Your Honor.

20          THE COURT: -- when a piece of litigation takes place  
21 in the state tort system against Garlock and at that point  
22 Garlock thinks somehow that because it's a codefendant with PCC  
23 that it may have some access or need to access a specific 2019  
24 statement as to a particular client.

25          But giving you mass discovery as to everybody who

1 every law firm represents I think has no basis in law or in  
2 fact. It is not -- those statements are not for that purpose  
3 and I don't see a basis to grant this relief.

4 MR. CASSADA: Your Honor, the statements would  
5 normally be filed under the light of day so that all the  
6 parties in the case could see them. In this particular case --

7 THE COURT: That fact that they haven't has been  
8 upheld by the Third Circuit.

9 MR. CASSADA: Right. But the Third Circuit has never  
10 heard a question of when a party in interest in a bankruptcy  
11 case is entitled to access that information.

12 Your Honor stated when you decided that the  
13 plaintiffs could file these 2019 statements and effectively put  
14 the identities of their clients and the particulars of their  
15 claim under seal, that the reason for that was not to protect  
16 them from disclosure to the parties in interest in the case who  
17 might need that information in connection with protecting their  
18 interest in the case but it was to protect them --

19 THE COURT: That's right. Who might need the  
20 information. That's crucial.

21 MR. CASSADA: -- it was to protect them from the  
22 public because Your Honor said --

23 THE COURT: That's right. And well, no, you are part  
24 of the public. Your client's part of the public.

25 MR. CASSADA: We are a party --

1           THE COURT: Your client may be a party in interest in  
2 this case.

3           MR. CASSADA: -- we are a party in interest.

4           THE COURT: That is not what you're attempting to use  
5 these ballots for. You're attempting to use them in state  
6 court litigation that has nothing to do with this case and that  
7 is not what the purpose of the 2019s is.

8           MR. CASSADA: I'm trying to use --

9           THE COURT: The purpose is to make sure that the  
10 entities who vote in this case have actually been identified  
11 and somebody makes the comparison to determine that in fact the  
12 law firm that purports to represent that party represents that  
13 party. And the ballots give you the same information, it tells  
14 you who votes.

15           To the extent that there is a discreet piece of  
16 litigation that at some point in the future means that Garlock  
17 needs access, this is without prejudice, you're raising that in  
18 that litigation at that time because you may file a motion for  
19 access regarding a particular discreet piece of litigation.

20           But to fashion some wholesale idea that there is  
21 large, I'll use the word fraud because I think that's  
22 essentially what you're suggesting, fraud in either the tort  
23 system or here without any evidence of that in this case, is  
24 simply uncalled for and you've got to prove it.

25           So you show me on the ballots or a ballot where an

1 individual is filing a claim here and has made a representation  
2 in the tort system that they have no such claim here and then  
3 I'll reconsider.

4 But I see no basis for disclosing the 2019 statements  
5 for the purpose Garlock is advancing that it needs them, i.e.  
6 to substantiate that it has a claim as a codefendant in the  
7 tort system here because the ballots tell you that same  
8 information and you've gotten access to the ballots.

9 MR. CASSADA: Yes. The ballots give you that  
10 information but timing is key and that's what the 2019  
11 statements.

12 THE COURT: But they don't.

13 MR. CASSADA: And just to be clear, Your Honor, we  
14 are not --

15 THE COURT: They don't even have to say that, Mr.  
16 Cassada.

17 MR. CASSADA: But they do, Your Honor.

18 THE COURT: Well --

19 MR. CASSADA: They do.

20 THE COURT: -- in this case they indicate when the  
21 claim arose? That's one of the fields that I ordered? I don't  
22 think so.

23 MR. CASSADA: Actually I believe you did order that,  
24 for them to state when their claim arose. But they in fact do  
25 state in them, at least some of them do, the ones I've looked

1 at do, that these claimants have Grace exposure.

2 THE COURT: Okay.

3 MR. CASSADA: That's what they --

4 THE COURT: You've got 2019 statements in this case  
5 that indicate that they have PPG -- Pittsburgh Corning  
6 exposure.

7 MR. CASSADA: I'm sorry. I said Grace exposure.

8 THE COURT: You've got 2019 statements in this case  
9 that say that the debtors have at a particular time because  
10 that's what you said that they indicated, when their claim  
11 arose, not that they have a claim but when the claim arose.

12 MR. CASSADA: I have statements that say that as of  
13 the date of the statements they have Pittsburgh Corning  
14 exposure.

15 THE COURT: I think what you read was that the firm  
16 represents clients who have exposure in the asbestos, to  
17 asbestos manufactured or distributed by the debtor and others.

18 MR. CASSADA: Yes.

19 THE COURT: Okay.

20 MR. CASSADA: Yes. That's evidence of exposure to  
21 the debtor.

22 THE COURT: Not necessarily.

23 MR. CASSADA: Well I have a hard time seeing how it  
24 isn't, Your Honor. You've got a lawyer saying I know what I'm  
25 talking about, I've got knowledge of this, and these people who

1 I'm attaching to this statement have exposure to products of  
2 the debtor and others. That's our point.

3 THE COURT: Okay. The ballots I think are sufficient  
4 at this time because they provide the same information. If I  
5 am incorrect, folks, in what I ordered because I have had a  
6 number of cases and to the extent that I'm incorrect, please  
7 straighten me out.

8 I have not gone back to look at the 2019 statements.  
9 Did I order a date of exposure to Pittsburgh Corning asbestos  
10 products in these 2019 statements?

11 MR. LOCKWOOD: No, Your Honor, you ordered people to  
12 comply with the rule and you read the rule early which says  
13 that if the acquisition of the claim occurs more than one year  
14 prior to the date of filing you don't have to provide the date  
15 on which "the claim was acquired."

16 THE COURT: Okay.

17 MR. CASSADA: Yeah, and let me suggest this, Your  
18 Honor. Then if we continue this hearing then I will provide  
19 you the evidence that you're talking about and I will show you  
20 that the reason we need the 2019 statements is to rebut an  
21 argument of subsequent discovery.

22 And if we show you the evidence exists of the  
23 inconsistent positions --

24 THE COURT: That has nothing to do with your claim in  
25 this case, an argument about subsequent discovery. That's

1 related to a case in the tort system --

2 MR. CASSADA: It has, yeah.

3 THE COURT: -- by a specific individual who's  
4 claiming, apparently claiming, that they had exposure to  
5 something that Garlock did and/or to something that Pittsburgh  
6 Corning did, but has earlier denied that exposure.

7 If you get a specific case like that in the tort  
8 system, you can seek relief from this Court. But you can't  
9 make a wholesale assertion that every person who is listed on a  
10 2019 statement is abusing either the bankruptcy or the tort  
11 system process by naming Garlock and Pittsburgh Corning in the  
12 same suit. Those suits aren't even going to go forward against  
13 Pittsburgh Corning in the future.

14 MR. CASSADA: Yes. I'm going to try to offer  
15 evidence to Your Honor at the confirmation hearing that the  
16 trust distribution procedures are unfair to Garlock because  
17 they allow the claimants to conceal evidence.

18 THE COURT: I know that's Garlock's position. The  
19 reality is --

20 MR. CASSADA: So this is relevant to that.

21 THE COURT: -- it is not related to that -- the  
22 reality is that Garlock has the same right to seek discovery  
23 against the trust in the event that it gets a claim in the tort  
24 system from somebody else that it has for relief from this  
25 Court with respect to the 2019 statements. It's not a

1 wholesale fishing expedition proposition. You've got to relate  
2 it to a --

3 MR. CASSADA: I'm not on a fishing expedition.

4 THE COURT: -- but you are, Mr. Cassada.

5 MR. CASSADA: I'll show you at the confirmation  
6 hearing why the state law discovery remedies are not sufficient  
7 to cover --

8 THE COURT: That is wholesale fishing. You need it  
9 in connection with a specific case. You have to be able to  
10 make an allegation that tort plaintiff A has essentially lied  
11 and when you make that allegation under oath or as a  
12 certification in a specific case, I will be happy to consider  
13 whatever disclosure is appropriate to attempt to prove that  
14 it's either true or not true.

15 But then you do it subject to Rule 9011 and with all  
16 of the sanctions that go along with it in the event that it is  
17 an inaccurate statement. It is not a wholesale fishing  
18 expedition.

19 So when that case arises in the tort system, you  
20 bring in that evidence. Otherwise you have the same remedy  
21 against the trust. You're permitted to issue subpoenas and get  
22 documentation from the trust and nothing in this provision of  
23 this plan or in any order this Court signs is going to do away  
24 with that.

25 MR. CASSADA: Okay. I understand your position, Your

1 Honor, but just to be clear again, the 2019 statements sought  
2 in this case are to aid Garlock in protecting its rights in  
3 this case.

4 THE COURT: I understand but that's duplicative.  
5 Actually it's not. It doesn't even do what the ballots do.  
6 The ballots are what protect Garlock's position in this case  
7 because it identifies whoever the actual individuals are who  
8 have voted in this case, asserted that they have a claim  
9 against Pittsburgh Corning, and Garlock now has the identity of  
10 every single one of those people.

11 So if Garlock in the tort system is faced with a  
12 claim by one of those people who have somehow said that they  
13 had no exposure to Pittsburgh Corning products in the past and  
14 now they're saying they do or vice versa, some inconsistent  
15 position, Garlock has a remedy here.

16 MR. CASSADA: Yeah, I'll bring that to Your Honor and  
17 then you will inevitably hear the subsequent discovery argument  
18 and then the 2019 statement would come into play.

19 THE COURT: Well at that time it might be ripe. It's  
20 not ripe now.

21 MR. CASSADA: Okay. Are you going to enter an order  
22 denying our motion today?

23 THE COURT: I thought you folks had some agreement  
24 that you were trying to work out things.

25 MR. CASSADA: Okay. I heard Your Honor, but I don't